

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Criminal Revision No. 407 of 1998

Date of decision : January 23, 2008

Kesar Singh Vs. State of Punjab

CORAM: Hon'ble Mr. Justice Kanwaljit Singh Ahluwalia.

Present: Mr.Nitin Kumar, Advocate, for the petitioner.
Mr. Mehardeep Singh, AAG, Punjab.

K.S. Ahluwalia, J. (Oral)

The instant criminal revision has been filed by Kesar Singh son of Hari Singh, resident of Kartar Pur, District Ropar.

The prosecution case is that on 9-5-1993 at about 11-00 a.m. in the area of bus stand Katani Kalan, the petitioner was driving Bus No. CH-01G-5061 and due to his rash and negligent driving, while attempting to overtake a tempo, it ran over the same and hit an electric pole and thereafter ran over one Maghi Ram, who was standing on left side of the road, as a result of which the latter died.

The petitioner was convicted by the Judicial Magistrate 1st Class, Ludhiana and sentenced to RI for one year under Section 304-A IPC and a fine of Rs. 2,000/- and six months' RI under Section 279 IPC. It was further ordered that non-payment of fine will entail him with three months' RI. All the sentences were ordered to run concurrently.

The petitioner filed appeal, which was also dismissed by learned Additional Sessions Judge, Ludhiana. Hence he has come up in the present revision petition.

Sh. Nitin Kumar appearing for the petitioner has very fairly stated that since the witnesses have been believed by both the Courts below and they have returned the findings of fact, it would be difficult for him to dislodge the testimony of the witnesses before a revisional court.

Making an alternative prayer for reduction of sentence, Mr. Nitin Kumar submits that the occurrence took place in May 1993. A period of 15 years has elapsed. The petitioner has suffered a protracted trial. He was taken into custody on 18-4-1998 and was enlarged on bail on 20-5-1998 i.e. he has undergone one month and two days.

Taking into consideration the totality of circumstances, I find no justification in sending the petitioner behind bars once again after 15 years. The sentence awarded by the trial Court is reduced to the period already undergone by the petitioner, subject to payment of fine of Rs.25,000/-, which (if realised) shall be disbursed to the legal heirs of deceased Maghi Ram. The amount of fine shall be deposited before the Chief Judicial Magistrate, Ludhiana within three months from today.

In case of failure to deposit the amount of fine, the present revision shall be deemed to have been dismissed and the petitioner shall undergo the remnant sentence, as awarded by the trial Court.

With the aforesaid modification in the sentence, the revision petition stands disposed of.

[Kanwaljit Singh Ahluwalia]
Judge

January 23, 2008.

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